



OFFICE OF THE PUBLIC DEFENDER JOB PROFILE

The job profile is a streamlined position description and may serve as the core document for all human resource functions such as recruitment, selection, performance management and career and succession planning.

SECTION I – Identification

<i>Working Title</i> Public Defender		<i>Job Code Number</i> 231117	<i>Job Code Title</i> Lawyer
<i>Pay Band</i> 7	<i>Position Number</i> 618 - Various		<input checked="" type="checkbox"/> FLSA Exempt <input type="checkbox"/> FLSA Non-Exempt
<i>Department</i> Office of the Public Defender			<i>Division and Bureau</i> Various Regional and Public Defender Offices
<i>Section and Unit</i>			<i>Work Address and Phone</i> 44 W Park, Butte, MT 59701
<i>Profile Produced By</i> Randi Hood, Chief Public Defender Barb Kain, Human Resource Officer		<i>Work Phone</i> 406-496-6080 406-496-6091	

Description of the Work Unit:

The Office of the State Public Defender was established to create a statewide public defender system to provide effective assistance of counsel to indigent criminal defendants and other persons in civil cases who are entitled by law to assistance of counsel at public expense. The statute creating the statewide system also ensures that the system is free from undue political interference and conflicts of interest; that public defender services are delivered by qualified and competent counsel in a manner that is fair and consistent throughout the State of Montana; that the system utilizes state employees, contracted services, or other methods of providing services in a manner that is responsive to and respectful of regional and community needs and interests; and that adequate public funding of the statewide public defender system is provided and managed in a fiscally responsible manner.

The Office of the State Public Defender represents indigent clients in criminal, dependent neglect, and appeal cases. Further, the agency represents all clients involved in juvenile cases, the commitment of the mentally ill, and the representation of incapacitated persons.

Eleven regional public defender offices have been established around the State of Montana. This position will be assigned to one of the public defender offices located in 16 different cities. Regional offices are located in Kalispell, Missoula, Great Falls, Helena, Butte, Bozeman, Billings, Miles City, Glendive, Havre, and Lewistown. Additional public defender offices are located in Polson, Libby, Hamilton, Cut Bank, and Anaconda.

Purpose of the Job:

Public Defenders render legal services for all cases handled by the Office of the State Public Defender including felony and misdemeanor cases; juvenile cases; civil commitment cases; involuntary commitments; abuse and neglect proceedings; appeals to the Montana Supreme Court; post-conviction matters; petitions for *certiorari* to the United State Supreme Court and representation of parents in dependent/neglect cases; representation of a respondent in a guardianship or conservatorship proceeding; representation of persons in a proceeding to determine parentage under the uniform parentage act); representation of parents or a guardian in a proceeding for the involuntary commitment of a developmentally disabled person; and representation of a respondent in a proceeding for involuntary commitment. Each Public Defender shall meet the requirements set forth herein and in the Montana Rules of Professional Conduct.

Counsel may be assigned to represent persons in all cases as described in the Montana Public Defender Act and in any other case deemed appropriate by the Montana Supreme Court.

SECTION II - Major Duties or Responsibilities

This section should be a clear concise statement of the position's major duties and the approximate percent of work time for each duty.

% of Time

Public Defenders at this level are expected to exercise their own judgment and provide complete indigent defense work for clients. Assigned cases or legal problems often involve difficult legal issues and at the same time must be flexible in handling any case assigned to them

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- Serves as defense attorney for indigent criminal defendants and other persons in civil cases who are entitled by law to assistance of counsel at public expense;
- Prepares for and appears with clients at all pretrial and trial proceedings and hearings, including but not limited to arraignments, guilty pleas, jury and non-jury trials, sentencing hearings, transfer hearings, law and motion hearings, and guardianships and dependent and neglect hearings to represent client's interests;
- Provides quality representation and diligent advocacy to the client at all stages of the representation;
- Conducts interviews, answers inquiries from clients and keeps the client informed of the progress of the case; coordinates related activities to review and evaluate evidence and assess case strength;
- Conducts investigations; obtains formal and informal discovery; develops a theory of the case; researches legal issues, prepares, files and argues appropriate motions;
- Negotiate settlements or changes of plea;
- Present cases that may involve highly technical as well as legal procedural complexity;
- Interviews clients and their families and coordinates related activities to review and evaluate evidence and assess strength of case;
- Meets with prosecuting attorneys to evaluate and consider plea bargaining potentials and offers;
- Analyzes charging documents, police reports and discovery material and evidence for assigned criminal cases;
- Prepares trial briefs and conducts all phases of trial in court;
- Prepares for Voir Dire:
- Examines prospective jurors;
- Prepares closing arguments
- Develop Jury Instructions
- Researches and briefs post-conviction motions, consulting with the Appellate Defender's Office when necessary
- Recommends bond and participates in bond hearings;
- Reviews petitions for probation revocations;
- Participates in sentencing hearing
- Prepares motions for a new trial
- Informs defendant of right to an appeal
- Provides information to appellate counsel (where new counsel is handling the appeal);
- Informs defendant of right to apply to the sentence review panel
- Informs defendant of right for post-conviction relief
- Provides standby counsel in criminal cases.
- Actively and effectively represent clients in the appellate process by presenting for appellate

<p>review all legal issues that have a reasonable probability of resulting in reversal of the client's conviction or commitment, or improving his or her legal position.</p> <ul style="list-style-type: none"> Develops, in consultation with the client, an overall defense strategy. In deciding on defense strategy, counsel should consider whether the client's interests are best served by not putting on a defense case and instead relying on the prosecution's failure to meet its constitutional burden of proving each element beyond a reasonable doubt. Counsel must be alert to all potential and actual conflicts of interest that would impair counsel's ability to represent a client. When appropriate, counsel may be obliged to seek an advisory opinion on any potential conflicts. If a conflict develops during the course of representation, counsel has a duty to notify the client and the court in accordance with the Rules of Professional Conduct and in accordance with the Disciplinary Rules of the State Bar of Montana. Keeps current with the statutes, rules, and cases regarding both procedural and substantive legal issues. Bring the same level of expertise, preparation, and participation to juvenile, involuntary commitment, and dependent/neglect cases. May provide direction and guidance to Public Defenders and Investigators on specific case assignments. 	
2. If this position supervises other positions, complete the following information.	
<p>The number of employees supervised is NONE.</p> <p>List the complexity level of the subordinates _____</p> <p>Please list the Position Number for those supervised _____</p> <p>Is this position responsible for:</p> <div style="display: flex; flex-wrap: wrap; gap: 10px;"> <div><input type="checkbox"/> Hiring</div> <div><input type="checkbox"/> Firing</div> <div><input type="checkbox"/> Performance Management</div> <div><input type="checkbox"/> Promotions</div> <div><input type="checkbox"/> Supervision</div> <div><input type="checkbox"/> Discipline</div> <div><input type="checkbox"/> Pay Level</div> <div><input type="checkbox"/> Other: _____</div> </div>	
SECTION III - Minimum Qualifications - List the minimum requirements for first day of work.	
<p><u>Please list the main knowledge and skill areas required for the job:</u></p> <p>Knowledge of:</p> <ul style="list-style-type: none"> Legal and court policies, procedures, practices and their application with particular reference to indigent defense State and federal laws, rules and regulations and their judicial interpretation and precedents Methods and tactics employed in the defense of legal actions in courts; Substantive criminal law and the law of criminal procedure and its application in the State of Montana. Counsel has a continuing obligation to stay abreast of changes and developments in the law; Counsel has a continuing obligation to stay abreast of changes and developments in the law; Extensive knowledge of Titles 40, (Uniform Parentage Act), 41 (Montana Youth Court Act) (Child Abuse and Neglect), 45 (Crimes), 46 (Criminal Procedure), 53 (Mental Disorder), Montana Code Annotated; Rules of Evidence, Rules of Appellate Procedures; Classification of mental disorders and the ability to read and understand medical terminology related to mental disorders, developmental disabilities, chemical dependence and alcoholism, and how a particular mental disorder, developmental disability, chemical dependence or alcoholism will affect Public Defender client communications and should recognize that communications may require special efforts on the part of counsel. Cultural differences that may effect the attorney/client relationship and communications; Statutory requirements governing guardianship and conservatorship in the jurisdiction as well as case law and court rules; 	

- Various types of pleas that may be agreed to, including a plea of guilty, a plea of *nolo contendere*, and a plea in which the defendant is not required to personally acknowledge his or her guilt;
- Services available to youth, minors; mental health and social services that may be available in the community.
- Principles and practices of evidence collection
- General legal principles and their applications, the powers, functions and duties of the Public Defender office

Skills to:

- Assess hypothetical situations and impacts;
- Consolidate a unified strategy in response to numerous issues and concerns;
- Analyze highly complex legal documents for clarity and legal sufficiency;
- Assemble, appraise and organize facts and to logically, clearly and concisely present evidence and other matters in accepted oral and written legal forms;
- Assign work to Public Defenders, support staff and investigators
- Prepare briefs, opinions and pleadings in legal matters;
- Carry out legal research; analyze legal documents and instruments for clarity and legal sufficiency; assemble, appraise and organize facts and logically, clearly, and concisely present noncomplex evidentiary matters and other materials in accepted oral and written legal forms;
- Frame issues based on the policy implications associated with the Public Defender System;
- Recognize, analyze and solve complex problems;
- Establish and maintain effective working relationships with indigent clients, attorneys, elected officials, witnesses, Judges, court personnel, law enforcement personnel, agency personnel and the public;
- Communicate effectively orally and in writing;
- Make proper decisions in stressful situations;
- Prepare the preparation of accurate and reliable legal documents and perform a wide variety of legal tasks under the pressure of time-sensitive deadlines;
- Accept the direction of the Chief Public Defender, Regional Deputy Public Defender, Managing Attorneys and the Commission
- Prepare briefs, motions, and pleadings, and in carrying out legal research of a difficult nature;
- Problem solving and decision making;
- Must be self motivated and customer-oriented;
- Research analyze a wide variety of materials and documentation;

In order to provide effective representation Public Defenders employed by the Office of the State Public Defender will be required to attend and engage in various training sessions provided to gain additional knowledge, skills and abilities relating to public defender practice or representing persons whose liberty is at risk as a result of State initiated proceedings to ensure that Counsel meets the minimum standards before accepting a case. In addition other training sessions will be required which include, but are not limited to, mental health disabilities, cultural competency, and drug dependency.

Education and experience: Please check the one box that indicates the **minimum** educational requirements for this job, as it relates to a new employee on the **first day** of work (not the educational background of the person now in the position):

- | | |
|--|--|
| <input type="checkbox"/> No education required | <input type="checkbox"/> 2 year job-related college or vocational training |
| <input type="checkbox"/> High school diploma or equivalent | <input type="checkbox"/> College degree (Bachelor's) |
| <input type="checkbox"/> 1 year job-related college or vocational training | <input checked="" type="checkbox"/> Post-graduate degree or equivalent (e.g. Master's, JD) |

There may be a variety of fields of study that are acceptable. A Human Resource Specialist may have a Bachelor's in Human Resources, Business Administration, Public Administration or another related field. Please specify the acceptable fields of study:

Graduation from Accredited Law School.

License required (please specify):

Admission to the Montana State Bar; admission to Montana Courts, U.S. District Courts and Ninth Circuit Court of Appeals. In addition the incumbent must satisfy the minimum requirements for practicing law in Montana as determined by the Montana Supreme Court.

Please check the one box that indicates the minimum amount of job-related work experience needed as a new employee on the first day of work (not the experience of the person now in the position):

- ☐ No prior work experience required ☒ 3 to 4 years job-related work experience
- ☐ 1 to 2 years of job-related work experience ☐ 5 or more years of job-related work experience

A minimum of 3-4 years of job related experience working as a Public Defender whereby the incumbent has had experience in litigation of criminal and civil law involving public defense actions.

☒ This agency will accept alternative methods of obtaining necessary qualifications.

For recruiting purposes please list examples of acceptable alternative methods of obtaining those qualifications. **These examples should appear on a vacancy announcement.**

The minimum requirements include Juris Doctor from ABA accredited law school. Ideal candidates will include recent graduates who have a strong desire to work in the Public Defender System with little or no experience up to having at least five years of practical experience in law, preferably in litigation of criminal and civil law involving public defense actions. Admission to the State Bar of Montana is preferred. Positions filled at the higher levels will require admission to Montana Courts, U.S. District Courts and Ninth Circuit Court of Appeals. Candidates who are hired who have a Juris Doctor from the ABA accredited law school are hired under a training assignment and provided on the job training at a lower pay level until they have been admitted to the State Bar of Montana and achieve the ability to handle a wide variety of case assignments independently.

SECTION IV – Other Important Job Information

List any other important information associated with this position, such as working conditions, supervision provided or received, scope and effect and personal contact.

While performing the duties of this job, the employee is regularly required to talk or hear. The employee frequently is required to sit and use hands to take notes or operate keyboard. Employee is required to stand and walk. The employee must occasionally lift and/or move up to 50 pounds. Specific vision abilities required by this job include close vision, distance vision, and ability to adjust focus.

The employee works in an office setting, court setting and has regular visits with clients in jail, detention centers, and mental health facilities. Requires exposure to stressful situations.

Incumbent is required to travel throughout the state to attend training sessions and to represent clients who are assigned to the Public Defender.

SECTION V – Signatures

My signature below (typed or hand written) indicates the statements in Section I to IV are accurate and complete.

Administrative Review:

Randi M. Hood

Chief Public Defender

01/01/2008